

REMARKS

INTRODUCTION:

Claims 1, 3, 4, 9, 16, 19, 20 and 23 have been amended. Support for the amendments may be found at least at paragraphs [0029], [0030] and [0031] of the present application and therefore no new matter has been added. Claims 2 and 17 have been cancelled without prejudice.

Claims 1, 2-6, 8, 9, 11-16 and 18-25 are pending and under consideration. Claims 1, 4, 9, and 16 are independent claims. Applicants request reconsideration and allowance of the present application in view of the present amendments and the following remarks.

REJECTIONS UNDER 35 USC 102:

Claim 1-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,652,824 to Hirayama et al. ("Hirayama"). The rejection is respectfully traversed.

Amended independent claim 1 recites at least the following:

displaying a language selection menu including a plurality of language choices when the multi-language selection function key is selected, and when the multi-language selection function key is not selected, entering a default mode in which the language previously designated by the user as the default language is selected;

Hirayama fails to suggest or disclose at least all of the above-claimed features. The Office Action relies on col. 9, lines 29-34 of Hirayama which states:

"If neither the speech select button nor the subtitle change button is operated for a certain period of time, the reproduction mode selected at the first menu screen will be effected. The speech output mode and the subtitle display mode can be changed during operation on the reproduction apparatus side."

However, the above-cited section of Hirayama fails to describe a default mode because it first requires that a reproduction mode be selected at the first menu screen. A true default mode describes an option that is selected *automatically*, unless an alternative is specified.

Accordingly, Applicants submit that amended independent claim 1 patentably distinguishes over Hirayama, and should be allowable for at least the above-mentioned reasons. Since similar features recited by each of the independent claims 4 and 16, with potentially

differing scope and breadth, are not suggested or disclosed by Hirayama, the rejection should be withdrawn and claims 4 and 16 also allowed.

Regarding the rejection of claims 2, 3, 5, 6, 8 and 17-20, these claims depend directly or indirectly on one of independent claims 1, 4 and 16, and are therefore believed to be allowable for at least the reasons noted above.

Amended independent claim 9 recites at least the following:

a digital to analog converter that converts the decoded audio streams from digital to analog audio signals and simultaneously outputs the analog audio signals to the user via two or more independent audio channels such that the first selection choice is output at a louder volume than the second selection choice.

Hirayama fails to suggest or disclose at least all of the above-claimed features. At col. 16, lines 13-15, Hirayama states in part:

"The system control system 204 can supply a volume control signal, a sound quality control signal, and the like, for right and left channels to the decoders 701 and 711."

However, the cited portion of Hirayama fails to describe all of the above-recited features.

Accordingly, Applicants submit that amended independent claim 9 patentably distinguishes over Hirayama, and should be allowable for at least the above-mentioned reasons. Claims 11-15 depend directly or indirectly on independent claim 9 and are therefore believed to be allowable for at least the reasons noted above.

EXAMINER NOT RESPONDING TO PREVIOUS ARGUMENT

As noted in at least MPEP 707.07(f), the Examiner is required to answer and address all traversals. This requirement is in addition to any repetition of a previously held position and is required to allow the applicant a chance to review the Examiner's position as to these arguments and to clarify the record for appeal.

Additionally and as further noted in MPEP 707.07(f), a failure of the Examiner to address the applicant's traversals can be deemed a failure to rebut these arguments so as to admit that the arguments have overcome the rejection. At the very least, the failure to address the applicant's traversals would render the Examiner's decision to again reject the claims arbitrary and capricious and invalid under the Administrative Procedures Act, 5 U.S.C. § 706, the

standard under which such rejections are reviewed in view of *Dickinson v. Zurko*, 527 U.S. 150, 50 USPQ2d 1930 (1999).

Consequently, since the Examiner has not addressed Applicants' traversals presented with respect to dependent claim 2 (now included in independent claim 1) on page 8 of the Amendment filed November 14, 2007, it is respectfully requested that the Examiner withdraw the Final Office Action and issue a new Office Action specifically addressing Applicants' arguments.

REQUEST FOR ENTRY IN ACCORDANCE WITH 37 CFR 1.116:

Entry of this Amendment in accordance with 37 CFR 1.116 is respectfully requested. Applicants submit that this Amendment After Final Rejection places the subject application in condition for allowance. This Amendment was not presented earlier because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment as an earnest attempt to advance prosecution and reduce the number of issues under appeal is requested under 37 C.F.R. § 1.116.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935

Respectfully submitted,

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